

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KPN B.V.

Plaintiff,

- against-

CORCYRA D.O.O.,  
KSD PACIFIC, LLC,  
MOSHE HAR ADIR, and  
YOSSI ATTIA

Defendants.  
-----

**REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF  
MOTION TO QUASH BY  
CORCYRA, d.o.o.**

Civil Action No. 08 CV 1549 (JGK)

Pursuant to Federal Rules of Evidence Rule 201, Specially Appearing Defendant Corcyra, d.o.o., request that the Court take judicial notice of the following documents in support of his Motion to Quash in the above-entitled matter, which was concurrently filed herewith.

EXHIBIT 1: Summons and alleged Declaration of Service as to Corcyra D.O.O. filed by Plaintiff in the above-entitled action on April 14, 2008.

EXHIBIT 2: Croatia Judicial Assistance from the U.S. Department of State website located at [http://travel.state.gov/law/info/judicial/judicial\\_695.html](http://travel.state.gov/law/info/judicial/judicial_695.html).

Dated: New York, New York  
May 30, 2008

KAUFMANN, FEINER, YAMIN,  
GILDIN & ROBBINS LLP  
Attorneys for Defendant Corcyra D.O.O.

By /s/ Kevin M. Shelley  
Kevin M. Shelley (KS8149)  
777 Third Avenue  
New York, New York 10017  
212.755.3100

and

ROBERT M. YASPAN (Pro Hac Vice Admission  
Pending)

JOSEPH G. McCARTY (Of Counsel) (Pro Hac  
Vice Admission Pending)

LAW OFFICES OF ROBERT M. YASPAN

21700 Oxnard Street, Suite 1750

Woodland Hills, California 91367

818.774.9929

# EXHIBIT 1

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

KPN B.V.

SUMMONS IN A CIVIL ACTION

V.

CORCYRA D.O.O.,  
KSD PACIFIC, LLC,  
MOSHE HAR ADIR, and  
YOSSI ATTIA

CASE NUMBER:

08 CV 1549

TO: (Name and address of Defendant)

CORCYRA D.O.O.  
Verudela 17, Pula Croatia 52100  
Attn: Moshe Har Adir

JUDGE KOELTL

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Allen & Overy LLP  
1221 Avenue of the Americas  
New York, NY 10020  
Attn: Jacob S. Pultman

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL MAHON

CLERK

*Mano Quintero*

(By) DEPUTY CLERK

FEB 14 2008

DATE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
KPN B.V.,	:
	:
Plaintiff,	:
	:
-against-	:
	:
CORCYRA D.O.O., KSD PACIFIC LLC,	:
MOSHE HAR ADIR, and YOSSIE ATTIA,	:
	:
	:
Defendants,	:
-----X	

08 CV 1549 (JGK)

ECF CASE

DECLARATION OF SERVICE

KURT R. VELLEK hereby declares under penalty of perjury that:

1. I am over 18 years of age, not a party to this action, and reside in Mahopac, New York. I am employed by the law firm of Allen & Overy LLP and I am a licensed New York City process server. My license number is 826793.

2. On Friday, February 15, 2008 at approximately 4:50 p.m., I personally served the summons and complaint upon defendant Corcyra d.o.o. ("Corcyra") by its attorney Elliot H. Lutzker, at his offices at Philips Nizer LLP, 666 Fifth Avenue, 28th Floor, New York, New York.

3. The receptionist initially informed Mr. Lutzker over the phone that I was serving legal papers in this action, but he refused to come to the reception area and directed the receptionist to refuse the papers as well. I informed her that the agreement specified that service needed to be made to Mr. Lutzker, and left the papers on the desk.

4. "Jane Doe", the receptionist on the 28th floor offices of Philips Nizer LLP, may be described as a white female in her early fifties with a medium build, with reddish brown hair, and wearing glasses.

5. Also, on repeated occasions on both February 19 and 20, 2008, I caused a copy of the summons and complaint to be delivered by facsimile transmission to Corcyra's overseas offices (fax number +385 52 590 731) pursuant to the agreement. The call failed to properly complete after each attempt.

6. In addition, on February 19, 2008, pursuant to the agreement I served an additional copy of the


summons and complaint upon Elliott Lutzker, Esq., c/o Philips Nizer LLP, 666 Fifth Avenue, New York, New York by US registered mail (receipt no. RA 696 877 633 US). Upon information and belief and according to the records of the US Postal Service, the package was delivered to Philips Nizer LLP on February 20, 2008.

7. Furthermore, on February 19, 2008, pursuant to the agreement I served an additional copy of the summons and complaint upon Corcyra d.o.o., c/o KSD Pacific LLC, 1061 ½ N. Spaulding Avenue, West Hollywood, California 90046 by US registered mail (receipt no. RA 696 877 677 US). Upon information and belief and according to the records of the US Postal Service, the package was delivered to Corcyra on February 26, 2008.

8. Also, on February 19, 2008 I caused an additional copy of the summons and complaint to be served by overnight delivery upon Corcyra d.o.o. c/o Moshe Har Adir, to Verudela 17, Pula, Croatia 52100, pursuant to the agreement. Upon information and belief and according to the records of Federal Express, the package (tracking no. 798377910058) was never claimed.

9. In addition, on February 19, 2008 I caused an additional copy of the summons and complaint to be served by overnight delivery upon Corcyra d.o.o. c/o Moshe Har Adir, to Valdabeckiput 118, Pula, Croatia 52100, pursuant to the agreement. Upon information and belief and according to the records of Federal Express, the package (tracking no. 798377922316) was never claimed.

Dated: March 31, 2008  
New York, New York

  
KURT R. VELLEK

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Index No. 08 CV 1549

KPN B.V.

, Plaintiff(s)

- against -

CORCYRA D.O.O., NSD PACIFIC, LLC, MOFHE MAR ADIR, AND YORST ATTIA

, Defendant(s)

State of California )

SS.:

County of Los Angeles )

**AFFIDAVIT OF SERVICE**

Ignacio Gutierrez being duly sworn, deposes and says that he is over the age of 18 years; is not a party to this action and resides within the State of California. That on 03/06/2008 at 2:38 PM at:

NSD PACIFIC LLC  
164 N. STANLEY DRIVE  
BEVERLY HILLS CA 90069

Deponent served the:

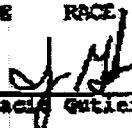
SUBPOENA IN A CIVIL ACTION AND COMPLAINT

on CORCYRA D.O.O.

a domestic and/or foreign corporation by delivering thereto a true copy to Jane Doe (refused name) personally, deponent knew said corporation so served to be the corporation, described in same as said recipient and knew said individual to be the Person In Charge Of Premis and who stated that they were authorized to accept service thereof.


Deponent describes the individual served as follows:

AGE: 42 HEIGHT: 5'6" WEIGHT: 135 HAIR: BLONDE RACE: WHITE SEX: FEMALE

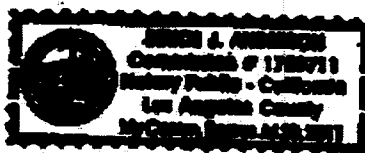
  
Ignacio Gutierrez Lic. #55660

SWORN TO BEFORE ME

April 11<sup>th</sup> 2008



OUR DOCS 20659  
Allen & Overy  
1221 Avenue of The Americas  
New York NY 10020  
646-344-6691



UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Index No. 08 CV 1549

KPS B.V.

, Plaintiff(s)

- against -

CORCYRA D.O.O., KSO PACIFIC, LLC, MORRE HAR ADIA, AND YOSHI AKITA

, Defendant(s)

State of California }

SS.:

County of Los Angeles }

NOT FOUND OR NOW SERVICE RETURN

I, the undersigned am and was on the dates herein mentioned, over the age of eighteen years and not a party to the action, attempted to serve the following:

SUMMONS IN A CIVIL ACTION AND COMPLAINT

And that after due search, careful inquiry and diligent attempts at the business:

CORCYRA D.O.O.  
1051 1/2 N. SEABUILDING AVENUE  
LOS ANGELES, CA 90046

I have been unable to make delivery of said process on the within named: CORCYRA D.O.O.

Process is being returned without service for the following reasons:

02/22/2008 at 3:22 PM - Business not open (hour wise)

02/25/2008 at 11:26 AM - Business not open (hour wise)

02/26/2008 at 12:07 PM - Business closed.

02/27/2008 at 11:22 AM - Business closed.

02/28/2008 at 4:32 PM - Talked to man at location who states that the company is not open.

02/29/2008 at 1:07 PM - Business closed.

03/03/2008 at 11:22 AM - Business closed.

03/04/2008 at 10:08 AM - Business closed.

03/05/2008 at 12:13 PM - Business closed.

Ignacio Gutierrez

License #5060

SWORN TO BEFORE ME

April 11<sup>th</sup>, 2008

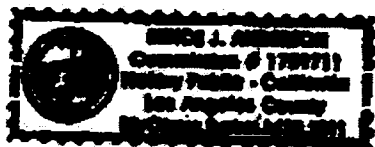
OUR DOCT 20655

Allen & Overy

1221 Avenue of The Americas

New York NY 10020

646-344-6694





# EXHIBIT 2

## Croatia Judicial Assistance

**DISCLAIMER:** THE INFORMATION IN THIS CIRCULAR RELATING TO THE LEGAL REQUIREMENTS OF SPECIFIC FOREIGN COUNTRIES IS PROVIDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE TOTALLY ACCURATE IN A PARTICULAR CASE. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO FOREIGN COUNSEL.

**PROVISO:** This flyer seeks only to provide information; it is not an opinion on any aspect of U.S., foreign, or international law. The U.S. Department of State does not intend by the contents of this flyer to take a position on any aspect of any pending litigation .

### APPLICABLE TREATIES OR OTHER AGREEMENTS

The Vienna Convention on Consular Relations, 21 UST 77; 596 UNTS 261; TIAS 6820 (Article 5);

The Council of Europe Convention on the Transfer of Sentenced Persons

Hague Convention Abolishing the Requirements of Legalization of Foreign Public Documents

### SERVICE OF PROCESS

**General:** Croatia is not a party to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters. Service of process in Croatia can be accomplished by a variety of methods. If eventual enforcement of a U.S. judgment in the foreign country is foreseen, it may be prudent to consult local foreign legal counsel to ascertain if a particular method of service must be used for service to be considered valid in the foreign jurisdiction.

**Civil cases:** Service of process in civil cases in Croatia may be affected by international registered mail, letters rogatory or by personal service by an agent, generally a Croatian attorney. Lists of Croatian attorneys are available from the Department of State, Office of American Citizens Services or directly from the U.S. Embassy in Croatia. Proof of service would be in the form of an affidavit executed before a U.S. consular officer by the individual effecting service.

**Criminal cases :** In criminal cases letters rogatory are the only method by which service can be effected.

Please see the U. S. Department of State flyer *Service of Legal Documents Abroad* .

### SERVICE PURSUANT TO LETTERS ROGATORY

**Translations:** Letters rogatory must be translated into Croatian. The letters rogatory request should be addressed to the Croatian Foreign Ministry, which is charged with transferring the case to the Ministry of Justice. The Ministry of Justice will then transmit the letter rogatory to the pertinent court for action.

**Costs:** Effective February 1, 1998, there is a \$455.00 consular fee for services related to execution of a letter rogatory (See 22 CFR 22.1, item 67). Foreign authorities may also charge fees, therefore, counsel are requested to submit a certified bank check in the amount of \$500.00 payable to the U.S. Embassy Zagreb as a deposit against which the U.S. consular fee, and any foreign fees may be deducted. Unexpended funds will be refunded by the U.S. Embassy. Corporate or personal checks are not acceptable. There is no consular fee for letters rogatory on behalf of federal, state or local government officials. If more than one witness or person to be served is involved, multiple fees may be charged and additional deposits may be requested.

### OBTAINING EVIDENCE

Croatia is not a party to the Hague Evidence Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Depositions may only be taken through letters rogatory in Croatia.

**COMPULSION OF EVIDENCE:** Testimony of an unwilling witness and other

evidence may be compelled in Croatia pursuant to a letter rogatory. Letters rogatory generally are transmitted through diplomatic channels. For further information about the letters rogatory process, see the Office of American Citizens Service's information flyer, "Preparation of Letters Rogatory". Requesting counsel should be aware that when letters rogatory are executed by foreign courts which compel the appearance of a witness to answer written interrogatories, the evidence is taken in accordance with the rules of the foreign court. In most cases an American attorney will not be permitted to participate in such a proceeding. Occasionally a foreign attorney may be permitted to attend such a proceeding and even to put forth additional questions to the witness. Not all foreign countries utilize the services of court reporters or routinely provide verbatim transcripts. Sometimes the presiding judge will dictate his recollection of the witness's responses to his secretary. Generally letters rogatory worldwide, including those sent to the United States, take from six months to a year to execute.

**AUTHENTICATION:** Croatia does not require authentication of letters rogatory by the Embassy of Croatia in the United States. However, in criminal cases, letters rogatory requesting evidence must be "legalized" with the Hague Convention apostille. See the flyer on the Hague Convention Abolishing the Requirements of Legislation of Foreign Public Documents.

**U.S. EMBASSY LOCATION :** U.S. Embassy, Consular Section, American Citizens Services,  
Andrije Hebranga 2, Zagreb, Croatia  
Tel: 385-1-455-55-00; Fax: 385-1-455-0774  
Internet Address: <http://www.usembassy.hr>

**LISTS OF FOREIGN ATTORNEYS:** Lists of foreign attorneys willing to represent U.S. citizens have been prepared by the U.S. Embassy and may be obtained from the Department of State, Office of American Citizen Services or directly from the U.S. Embassy in Zagreb.

**Additional Information:** Many of our judicial assistance flyers are also available on the Internet via the Department of State, Bureau of Consular Affairs home page under Judicial Assistance . See also, the Department of State, Office of the Legal Adviser for Private International Law (L/PIL) home page for information about the work of the Hague Conference on Private International Law and the OAS in private international law unification. See also the home pages for many of our embassies.

**Treaty Databases on the Internet:** Information on which countries are party to a particular treaty is available from the following databases:

United States Department of State, Office of the Legal Adviser, Treaty Affairs , List of Treaties and Other International Agreements of the United States In Force:  
[http://www.state.gov/www/global/legal\\_affairs/tifindex.html](http://www.state.gov/www/global/legal_affairs/tifindex.html).

**United Nations (UN):** Databases/Treaties at <http://untreaty.un.org> ;

**Council of Europe (COE):** [www.coe.fr/index.asp](http://www.coe.fr/index.asp) under Texts/Treaties  
<http://conventions.coe.int/> ;

**Organization of American States (OAS):** <http://www.oas.org> under Documents/Treaties and Conventions.

**Questions:** For additional information, contact the appropriate geographic division of the Office of American Citizens Services and Crisis Management at telephone (202) 647-5226.

Return to Judicial Assistance Page